**BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR**

Division Bench

**M.A. NO. 936 OF 2004.**

**APPELLANT**

**NON-APPLICANT NO. 3**

:- The United India Insurance Co. Ltd., Through Divisional Manager, Divisional Office, Mendekar Complex, Rajendra Nagar, Bilaspur, Tahsil and District Bilaspur (Chhattisgarh).

P.R. No. 1994/04
Presented by Shri 1994/04
dated 3-9-04

**VERSUS**

**RESPONDENTS**

:- 1. Smt. Sikha Bhaduri, aged about 52 yrs., Wife of Ashim Kumar Bhaduri,

2. Ashim Kumar Bhaduri, aged about 60 years, son of Anandakant Badhuri,

Both resident of H.I.G.-42, Nehru Nagar Bilaspur, Distt. Bilaspur (C.G.),

**CLAIMANTS**

3. Ajay Pathak,son of Ram Prakash Pathak aged about 30 years, resident of near Deshbandhu Press, Mangrapara, Bilaspur, Tahsil and Distt. Bilaspur (Chhattisgarh),

4. Smt. Rama Pathak, resident of near Deshbandhu Press, Jarhabhata, Bilaspur, Tah. and Distt. Bilaspur (Chhattisgarh).

**NON-APPLICANTS NO. 1 AND 2.**

**APPEAL UNDER SECTION 173 OF MOTOR VEHICLES ACT 1988**

**(Claim in appeal valued at Rs. 7,27,600/- only)**

Being aggrieved with the award dated 19.7.2004, passed in Claim Case No. 6 of 2003, by Smt. Madhuri Katulkar, Additional Motor Accident Claims Tribunal, Bilaspur, District Bilaspur (C.G.), between Smt. Sikha

**Contd..2..**

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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**आदेश पत्रक**

मामला क्रमांक M.A.NO.936/2004 सन् 200

..... विरुद्ध .....

| आदेश का दिनांक आदेश क्रमांक सहित | आदेश हस्ताक्षर सहित | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

**DIVISION BENCH:**
**Hon'ble Shri A.K. Patnaik, CJ**
**& Hon'ble Shri Dhirendra Mishra, J.**

**05/04/2005: -**

**M.A.No.936 of 2004**

Heard Mr. H.B. Agrawal, Sr. Advocate with Smt. Usha Chandrakar, learned counsel for the appellant / Insurance Company.

This is an appeal filed by the United India Insurance Company Ltd. against the award dated 19.07.2004 passed in Claim Case No.6 of 2003 by Additional Motor Accident Claims Tribunal, Bilaspur, awarding a sum of Rs.7,27,600/- against the appellant.

The ground taken in the appeal is that the amount of compensation was liable to be reduced on account of the contributory negligence on the part of the victim/deceased of the accident.

It is now well settled by Supreme Court that unless the permission is applied and granted under Section 170 of the Motor Vehicle Act, 1988 to contest a claim on the grounds other than those mentioned in Section 149 of the Act, 1988, the insurer cannot file an appeal on the ground that the compensation amount was liable to be reduced for contributory negligence on the part of victim/deceased. It appears from the record of the Tribunal that no such permission was applied for and granted under Section 170 of the Act, 1988. Hence, the appeal is not maintainable and the same is dismissed.

Sd/-
Chief Justice

Sd/-
DHIRENDRA MISHRA
Judge

(पीछे देखिये)